IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.03.2007

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice N.PAUL VASANTHAKUMAR

W.A.No.2064 of 2003

1.The Joint Commissioner of
Civil Supplies, Madras.

2.The District Supply Officer,
Trichy.

3.The District Revenue Officer,
Trichy. .. Appellants
(Respondents in WP No.14185/93)

-vs-

A.Ayyadurai .. Respondent
(Petitioner in -do-)

Writ Appeal filed under Clause 15 of Letters Patent against the order of this Court dated 25.02.1998 made in W.P.No.14185 of 1993 presented under Article 226 of the constitution of India to issue a writ of Certiorarified Mandamus calling for the records pertaining to the order of the 1st Respondent in K4/37012/92 dated 5.3.1993 and quash the same and direct the respondents to issue licence to the petitioner to carry on the Kerosene retail vending business.

For Appellants : Mr.P.Subramanian,G.A.
For Respondent : Mr.D.Peter Francis

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J U D G M E N T

(Judgment of the Court was delivered by P.SATHASIVAM, J.)

The above writ appeal is directed against the order of the learned single Judge dated 25.02.1998 made in W.P.No.14185 of 1993, in and by which, the learned Judge after quashing the impugned order, directed the Joint Commissioner of Civil Supplies, Madras to issue dealership of kerosene to the writ petitioner within thirty days from the date of receipt of a copy of the order.

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2. Heard the learned Government Advocate appearing for the appellants as well as the learned counsel for the respondent.

3. A perusal of the order of the Joint Commissioner of Civil Supplies shows that the request of the writ petitioner was turned down on the ground that he was not solely dependant on sale of kerosene for his livelihood. The order further shows that at the relevant time, his major son, viz., Thavasumani who was living along with the petitioner in the joint family was running a grocery shop and earning their livelihood from and out of that business. It is the specific case of the writ petitioner that at the relevant time, the grocery shop was owned only by his son, who was major, even according to the official respondents. Mr.D.Peter Francis, the learned counsel for the respondent/writ petitioner submitted that even the said business has been closed by the writ petitioner's son and thus there is no income derived from the said business.

4. The other ground on which the rejection was made is to the effect that his wife is owning a house. As rightly pointed out, it is not the case of the appellants that the writ petitioner is getting any income from and out of the said house. It is relevant to point out that in W.P.No.15444 of 1991 dated 06.11.1991, the learned single Judge of this Court, by referring various clauses in G.O.Ms.No.202, Food and Co-operation Department, dated 23.03.1982 found that in the absence of any proof that the writ petitioner was getting an income from and out of the said house, merely because his wife possessed a house cannot be a ground to reject the application of the petitioner for having licence to vend kerosene. On going through the relevant clauses in the said Government Order, we are in agreement with the said conclusion of the learned Judge.

6. In view of the fact that even the grocery shop was owned only by the writ petitioner's major son at the relevant point of time and the house stands in the name of his wife and not getting any income, we are of the view that the conclusion arrived by the original authority as well as the revisional authority, viz.,that the petitioner is getting income from the grocery business cannot be accepted. In other words, there is no basis for the same. All these aspects have been considered by the learned Judge and after accepting the same, issued direction to the authorities. It is also brought to our notice that pursuant to the order of the learned Judge, the writ petitioner was getting supply and continuing the

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business even today. Taking note of all these aspects, we are unable to accept the claim of the appellants, on the other hand, we are in agreement with the conclusion arrived by the learned Judge. Accordingly, the writ appeal fails and the same is dismissed. No costs.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

gms

To

1.The Joint Commissioner of
Civil Supplies, Madras.

2.The District Supply Officer,
Trichy.

3.The District Revenue Officer,
Trichy.

+2ccs to Mr.D.Peter Francis, Advocate Sr 15106
+1cc to Govt. Pleader Sr 15067

JRG (CO)
km/4.4.

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